

MONTANA LEGISLATIVE HISTORY

Chapter 404 19 97

Bill H 519 S _____

Original bill & history ☒ c

H. Committee on Business & Labor

Hearing Date(s) 2-14 ☒ c

2-19 ☒ c

_____ c

_____ c

Date Out _____ c

S. Committee on Labor & E. R.

Hearing Date(s) 3-18 ☒ c

3-20 ☒ c

3-27 ☒ c

_____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

SENATE		
4/11	FREE CONFERENCE COMMITTEE APPOINTED	
4/17	FREE CONFERENCE COMMITTEE REPORT NO. 1	
4/18	2ND READING FREE CONFERENCE COMMITTEE	
	REPORT NO. 1 ADOPTED	27 21
4/19	3RD READING FREE CONFERENCE COMMITTEE	
	REPORT NO. 1 ADOPTED	26 24
4/22	SIGNED BY SPEAKER	
4/25	SIGNED BY PRESIDENT	
4/25	TRANSMITTED TO GOVERNOR	
5/05	VETOED	

HB 518 INTRODUCED BY EWER

LC1067 DRAFTER: CAMPBELL

REVISE LOCAL GOVERNMENT LAWS

2/11	INTRODUCED		
2/11	FIRST READING		
2/11	REFERRED TO LOCAL GOVERNMENT		
2/11	FISCAL NOTE REQUESTED		
2/13	HEARING		
2/18	FISCAL NOTE RECEIVED		
2/19	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	FISCAL NOTE PRINTED		
2/21	2ND READING PASSED AS AMENDED	60	40
2/26	3RD READING PASSED	57	43
TRANSMITTED TO SENATE			
3/04	FIRST READING		
3/04	REFERRED TO LOCAL GOVERNMENT		
3/27	HEARING		
4/02	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/05	2ND READING CONCURRED	50	0
4/07	3RD READING CONCURRED	49	0
RETURNED TO HOUSE WITH AMENDMENTS			
4/12	2ND READING AMENDMENTS CONCURRED	83	11
4/14	3RD READING CONCURRED AS AMENDED	72	28
4/20	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
4/30	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 459		
	EFFECTIVE DATE: 04/30/97—SECTIONS 8, 16 & 18		
	EFFECTIVE DATE: 10/01/97—SECTIONS 1-7, 9-15 & 17		

HB 519 INTRODUCED BY WYATT

LC1345 DRAFTER: FOX

ALLOW AN ADVANCED PRACTICE REGISTERED NURSE THAT IS A NURSE PRACTITIONER OR A CLINICAL NURSE SPECIALIST TO PROVIDE SERVICES AS A TREATING PROVIDER AND A PRIMARY CARE PROVIDER UNDER THE WORKERS' COMPENSATION ACT

2/11	INTRODUCED		
2/11	FIRST READING		
2/11	REFERRED TO BUSINESS & LABOR		
2/14	HEARING		
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/22	2ND READING PASSED	90	10
2/26	3RD READING PASSED	89	9
TRANSMITTED TO SENATE			
3/04	FIRST READING		
3/04	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/06	REFERRED TO LABOR & EMPLOYMENT RELATIONS		

3/18	HEARING		
3/20	TABLED IN COMMITTEE		
4/04	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/05	2ND READING CONCURRED	50	0
4/07	3RD READING CONCURRED	48	1
	RETURNED TO HOUSE WITH AMENDMENTS		
4/10	2ND READING AMENDMENTS CONCURRED	88	3
4/11	3RD READING CONCURRED AS AMENDED	93	3
4/17	SIGNED BY SPEAKER		
4/17	SIGNED BY PRESIDENT		
4/18	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 404		
	EFFECTIVE DATE: 10/01/97		

HB 520 INTRODUCED BY SWANSON

LC1256 DRAFTER: KURTZ

ALLOW THE FISH, WILDLIFE, AND PARKS COMMISSION TO ESTABLISH A
FEE NOT TO EXCEED \$10 FOR A BLOCK MANAGEMENT AREA HUNTING
PERMIT

2/11	INTRODUCED		
2/11	FIRST READING		
2/11	REFERRED TO FISH, WILDLIFE & PARKS		
2/11	FISCAL NOTE REQUESTED		
2/15	FISCAL NOTE RECEIVED		
2/15	FISCAL NOTE PRINTED		
2/19	REVISED FISCAL NOTE RECEIVED		
2/19	REVISED FISCAL NOTE PRINTED		
3/06	HEARING		
3/11	TABLED IN COMMITTEE		
4/05	MISSED DEADLINE FOR 71ST DAY TRANSMITTAL		
	DIED IN COMMITTEE		

HB 521 INTRODUCED BY RYAN

LC1255 DRAFTER: PETESCH

REVISE THE GENERAL RULES FOR DETERMINING RESIDENCE

2/11	INTRODUCED		
2/11	FIRST READING		
2/11	REFERRED TO STATE ADMINISTRATION		
2/17	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED		
2/19	2ND READING PASSED	89	11
2/20	3RD READING PASSED	90	10
	TRANSMITTED TO SENATE		
2/21	FIRST READING		
2/21	REFERRED TO STATE ADMINISTRATION		
3/13	HEARING		
3/18	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/26	2ND READING CONCURRED	50	0
3/27	3RD READING CONCURRED	47	3
	RETURNED TO HOUSE WITH AMENDMENTS		
4/11	2ND READING AMENDMENTS CONCURRED	94	0
4/12	3RD READING CONCURRED AS AMENDED	88	7
4/15	SIGNED BY SPEAKER		
4/17	SIGNED BY PRESIDENT		
4/18	TRANSMITTED TO GOVERNOR		
4/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 367		
	EFFECTIVE DATE: 10/01/97		

INTRODUCED BY

House BILL NO. 519

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN ADVANCED PRACTICE REGISTERED NURSE TO PROVIDE SERVICES AS A TREATING PROVIDER AND A PRIMARY CARE PROVIDER UNDER THE WORKERS' COMPENSATION ACT; CHANGING THE TERM "TREATING PHYSICIAN" TO "TREATING PROVIDER" AND "PRIMARY CARE PHYSICIAN" TO "PRIMARY CARE PROVIDER"; AND AMENDING SECTIONS 39-71-116, 39-71-315, 39-71-701, 39-71-704, 39-71-711, 39-71-1101, 39-71-1102, 39-71-1105, 39-71-1106, 39-71-1107, 39-71-1108, AND 39-72-303, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-116, MCA, is amended to read:

"39-71-116. Definitions. Unless the context otherwise requires, words and phrases used in this chapter have the following meanings:

(1) "Actual wage loss" means that the wages that a worker earns or is qualified to earn after the worker reaches maximum healing are less than the actual wages the worker received at the time of the injury.

(2) "Administer and pay" includes all actions by the state fund under the Workers' Compensation Act and the Occupational Disease Act of Montana necessary to:

- (a) investigation, review, and settlement of claims;
- (b) payment of benefits;
- (c) setting of reserves;
- (d) furnishing of services and facilities; and
- (e) use of actuarial, audit, accounting, vocational rehabilitation, and legal services.

(3) "Aid or sustenance" means any public or private subsidy made to provide a means of support, maintenance, or subsistence for the recipient.

(4) "Average weekly wage" means the mean weekly earnings of all employees under covered employment, as defined and established annually by the department. It is established at the nearest whole dollar number and must be adopted by the department prior to July 1 of each year.

domiciliary care.

(13) "Insurer" means an employer bound by compensation plan No. 1, an insurance company transacting business under compensation plan No. 2, or the state fund under compensation plan No. 3.

(14) "Invalid" means one who is physically or mentally incapacitated.

(15) "Limited liability company" is as defined in 35-8-102.

(16) "Maintenance care" means treatment designed to provide the optimum state of health while minimizing recurrence of the clinical status.

(17) "Medical stability", "maximum healing", or "maximum medical healing" means a point in the healing process when further material improvement would not be reasonably expected from primary medical treatment.

(18) "Objective medical findings" means medical evidence, including range of motion, atrophy, muscle strength, muscle spasm, or other diagnostic evidence, substantiated by clinical findings.

(19) "Order" means any decision, rule, direction, requirement, or standard of the department or any other determination arrived at or decision made by the department.

(20) "Palliative care" means treatment designed to reduce or ease symptoms without curing the underlying cause of the symptoms.

(21) "Payroll", "annual payroll", or "annual payroll for the preceding year" means the average annual payroll of the employer for the preceding calendar year or, if the employer has not operated a sufficient or any length of time during the calendar year, 12 times the average monthly payroll for the current year. However, an estimate may be made by the department for any employer starting in business if average payrolls are not available. This estimate must be adjusted by additional payment by the employer or refund by the department, as the case may actually be, on December 31 of the current year. An employer's payroll must be computed by calculating all wages, as defined in 39-71-123, that are paid by an employer.

(22) "Permanent partial disability" means a physical condition in which a worker, after reaching maximum medical healing:

(a) has a permanent impairment established by objective medical findings;

(b) is able to return to work in some capacity but the permanent impairment impairs the worker's ability to work; and

(c) has an actual wage loss as a result of the injury.

(23) "Permanent total disability" means a physical condition resulting from injury as defined in this

(5) "Beneficiary" means:

(a) a surviving spouse living with or legally entitled to be supported by the deceased at the time of injury;

(b) an unmarried child under 18 years of age;

(c) an unmarried child under 22 years of age who is a full-time student in an accredited school or is enrolled in an accredited apprenticeship program;

(d) an invalid child over 18 years of age who is dependent upon the decedent for support at the time of injury;

(e) a parent who is dependent upon the decedent for support at the time of the injury if a beneficiary, as defined in subsections (5)(a) through (5)(d), does not exist; and

(f) a brother or sister under 18 years of age if dependent upon the decedent for support at the time of the injury but only until the age of 18 years and only when a beneficiary, as defined in subsections (5)(a) through (5)(e), does not exist.

(6) "Casual employment" means employment not in the usual course of the trade, business, profession, or occupation of the employer.

(7) "Child" includes a posthumous child, a dependent stepchild, and a child legally adopted prior to the injury.

(8) "Construction industry" means the major group of general contractors and operative builders, heavy construction (other than building construction) contractors, and special trade contractors, listed in major groups 15 through 17 in the 1987 Standard Industrial Classification Manual. The term does not include office workers, design professionals, salespersons, estimators, or any other related employment that is not directly involved on a regular basis in the provision of physical labor at a construction or renovation site.

(9) "Days" means calendar days, unless otherwise specified.

(10) "Department" means the department of labor and industry.

(11) "Fiscal year" means the period of time between July 1 and the succeeding June 30.

(12) "Household or domestic employment" means employment of persons other than members of the household for the purpose of tending to the aid and comfort of the employer or members of the employer's family, including but not limited to housecleaning and yard work, but does not include employment beyond the scope of normal household or domestic duties, such as home health care or

chapter, after a worker reaches maximum medical healing, in which a worker does not have a reasonable prospect of physically performing regular employment. Regular employment means work on a recurring basis performed for remuneration in a trade, business, profession, or other occupation in this state. Lack of immediate job openings is not a factor to be considered in determining if a worker is permanently totally disabled.

(24) The "plant of the employer" includes the place of business of a third person while the employer has access to or control over the place of business for the purpose of carrying on the employer's usual trade, business, or occupation.

(25) "Primary medical services" means treatment prescribed by a treating ~~physician~~ provider, under conditions resulting from the injury, necessary for achieving medical stability.

(26) "Public corporation" means the state or any county, municipal corporation, school district, or city under a commission form of government or special charter, town, or village.

(27) "Reasonably safe place to work" means that the place of employment has been made as free from danger to the life or safety of the employee as the nature of the employment will reasonably permit.

(28) "Reasonably safe tools and appliances" are tools and appliances that are adapted to and used in a manner that are reasonably safe for use for the particular purpose for which they are furnished.

(29) (a) "Secondary medical services" means those medical services or appliances that are considered not medically necessary for medical stability. The services and appliances include but are not limited to spas or hot tubs, work hardening, physical restoration programs and other restoration programs designed to address disability and not impairment, or equipment offered by individuals, clinics, group homes, hospitals, or rehabilitation facilities.

(b) (i) As used in this subsection (29), "disability" means a condition in which a worker's ability to engage in gainful employment is diminished as a result of physical restrictions resulting from an injury. The restrictions may be combined with factors, such as the worker's age, education, work history, and other factors that affect the worker's ability to engage in gainful employment.

(ii) Disability does not mean a purely medical condition.

(30) "Sole proprietor" means the person who has the exclusive legal right or title to or ownership of a business enterprise.

(31) "Temporary partial disability" means a physical condition resulting from an injury, as defined in 39-71-119, in which a worker, prior to maximum healing:

(a) is temporarily unable to return to the position held at the time of injury because of a medically determined physical restriction;

(b) returns to work in a modified or alternative employment; and

(c) suffers a partial wage loss.

(32) "Temporary service contractor" means a person, firm, association, partnership, limited liability company, or corporation conducting business that hires its own employees and assigns them to clients to fill a work assignment with a finite ending date to support or supplement the client's workforce in situations resulting from employee absences, skill shortages, seasonal workloads, and special assignments and projects.

(33) "Temporary total disability" means a physical condition resulting from an injury, as defined in this chapter, that results in total loss of wages and exists until the injured worker reaches maximum medical healing.

(34) "Temporary worker" means a worker whose services are furnished to another on a part-time or temporary basis to fill a work assignment with a finite ending date to support or supplement a workforce in situations resulting from employee absences, skill shortages, seasonal workloads, and special assignments and projects.

(35) "Treating ~~physician~~ provider" means a person who is primarily responsible for the treatment of a worker's compensable injury and is:

(a) a physician licensed by the state of Montana under Title 37, chapter 3, and has admitting privileges to practice in one or more hospitals, if any, in the area where the physician is located;

(b) a chiropractor licensed by the state of Montana under Title 37, chapter 12;

(c) a physician assistant-certified licensed by the state of Montana under Title 37, chapter 20, if there is not a physician, as defined in subsection (35)(a), in the area where the physician assistant-certified is located;

(d) an osteopath licensed by the state of Montana under Title 37, chapter 5; or

(e) a dentist licensed by the state of Montana under Title 37, chapter 4; or

(f) an advanced practice registered nurse licensed by the state of Montana under Title 37, chapter

8.

(36) "Year", unless otherwise specified, means calendar year."

1 **Section 2.** Section 39-71-315, MCA, is amended to read:

2 **"39-71-315. Prohibited actions -- penalty.** (1) The following actions by a medical provide
3 constitute violations and are subject to the penalty in subsection (2):

4 (a) failing to document, under oath, the provision of the services or treatment for which
5 compensation is claimed under chapter 72 or this chapter; or

6 (b) referring a worker for treatment or diagnosis of an injury or illness that is compensable under
7 chapter 72 or this chapter to a facility owned wholly or in part by the provider, unless the provider informs
8 the worker of the ownership interest and provides the name and address of alternate facilities, if any exist

9 (2) A person who violates this section may be assessed a penalty of not less than \$200 or more
10 than \$500 for each offense. The department shall assess and collect the penalty.

11 (3) Subsection (1)(b) does not apply to medical services provided to an injured worker by a treating
12 ~~physician~~ provider with an ownership interest in a managed care organization that has been certified by the
13 department."

14
15 **Section 3.** Section 39-71-701, MCA, is amended to read:

16 **"39-71-701. Compensation for temporary total disability -- exception.** (1) Subject to the limitation
17 in 39-71-736 and subsection (4) of this section, a worker is eligible for temporary total disability benefits

18 (a) when the worker suffers a total loss of wages as a result of an injury and until the worker
19 reaches maximum healing; or

20 (b) until the worker has been released to return to the employment in which the worker was
21 engaged at the time of the injury or to employment with similar physical requirements.

22 (2) The determination of temporary total disability must be supported by a preponderance of
23 objective medical findings.

24 (3) Weekly compensation benefits for injury producing temporary total disability are 66 2/3% of
25 the wages received at the time of the injury. The maximum weekly compensation benefits may not exceed
26 the state's average weekly wage at the time of injury. Temporary total disability benefits must be paid for
27 the duration of the worker's temporary disability. The weekly benefit amount may not be adjusted for cost
28 of living as provided in 39-71-702(5).

29 (4) If the treating ~~physician~~ provider releases a worker to return to the same, a modified, or an
30 alternative position that the individual is able and qualified to perform with the same employer at a

equivalent or higher wage than the individual received at the time of injury, the worker is no longer eligible for temporary total disability benefits even though the worker has not reached maximum healing. A worker qualifies for temporary total disability benefits if the modified or alternative position is no longer available for any reason to the worker and the worker continues to be temporarily totally disabled, as defined in 39-71-116.

(5) In cases in which it is determined that periodic disability benefits granted by the Social Security Act are payable because of the injury, the weekly benefits payable under this section are reduced, but not below zero, by an amount equal, as nearly as practical, to one-half the federal periodic benefits for the week, which amount is to be calculated from the date of the disability social security entitlement.

(6) If the claimant is awarded social security benefits, the insurer may, upon notification of the claimant's receipt of social security benefits, suspend biweekly compensation benefits for a period sufficient to recover any resulting overpayment of benefits. This subsection does not prevent a claimant and insurer from agreeing to a repayment plan.

(7) A worker may not receive both wages and temporary total disability benefits without the written consent of the insurer. A worker who receives both wages and temporary total disability benefits without written consent of the insurer is guilty of theft and may be prosecuted under 45-6-301."

Section 4. Section 39-71-704, MCA, is amended to read:

"39-71-704. Payment of medical, hospital, and related services -- fee schedules and hospital rates -- fee limitation. (1) In addition to the compensation provided under this chapter and as an additional benefit separate and apart from compensation benefits actually provided, the following must be furnished:

(a) After the happening of a compensable injury and subject to other provisions of this chapter, the insurer shall furnish reasonable primary medical services for conditions resulting from the injury for those periods as the nature of the injury or the process of recovery requires.

(b) The insurer shall furnish secondary medical services only upon a clear demonstration of cost-effectiveness of the services in returning the injured worker to actual employment.

(c) The insurer shall replace or repair prescription eyeglasses, prescription contact lenses, prescription hearing aids, and dentures that are damaged or lost as a result of an injury, as defined in 39-71-119, arising out of and in the course of employment.

(d) The insurer shall reimburse a worker for reasonable travel expenses incurred in travel to a

1 medical provider for treatment of an injury only if the travel is incurred at the request of the insurer.
2 Reimbursement must be at the rates allowed for reimbursement of travel by state employees.

3 (e) Except for the repair or replacement of a prosthesis furnished as a result of an industrial injury,
4 the benefits provided for in this section terminate when they are not used for a period of 60 consecutive
5 months.

6 (f) Notwithstanding subsection (1)(a), the insurer may not be required to furnish, after the worker
7 has achieved medical stability, palliative or maintenance care except:

8 (i) when provided to a worker who has been determined to be permanently totally disabled and
9 whom it is medically necessary to monitor administration of prescription medication to maintain the worker
10 in a medically stationary condition; or

11 (ii) when necessary to monitor the status of a prosthetic device.

12 (g) If the worker's treating ~~physician~~ provider believes that palliative or maintenance care that
13 would otherwise not be compensable under subsection (1)(f) is appropriate to enable the worker to continue
14 current employment or that there is a clear probability of returning the worker to employment, the treating
15 ~~physician~~ provider shall first request approval from the insurer for the treatment. If approval is not granted,
16 the treating ~~physician~~ provider may request approval from the department for the treatment. The
17 department shall appoint a panel of ~~physicians~~ providers, including at least one treating ~~physician~~ provi
18 from the area of specialty in which the injured worker is being treated, pursuant to rules that
19 the department may adopt, to review the proposed treatment and determine its appropriateness.

20 (h) Notwithstanding any other provisions of this chapter, the department, by rule and upon
21 advice of the professional licensing boards of practitioners affected by the rule, may exclude from
22 compensability any medical treatment that the department finds to be unscientific, unproved, outmoded
23 or experimental.

24 (2) The department shall annually establish a schedule of fees for medical nonhospital services
25 necessary for the treatment of injured workers. Charges submitted by providers must be the usual and
26 customary charges for nonworkers' compensation patients. The department may require insurers to submit
27 information to be used in establishing the schedule. The department shall establish utilization and treatment
28 standards for all medical services provided for under this chapter in consultation with the standing medical
29 advisory committees provided for in 39-71-1109.

30 (3) The department shall establish rates for hospital services necessary for the treatment of injured

workers. Beginning January 1, 1995, the rates may be based on per diem or diagnostic-related groups. The rates established by the department pursuant to this subsection may not be less than medicaid reimbursement rates. Approved rates must be in effect for a period of 12 months from the date of approval. The department may coordinate this ratesetting function with other public agencies that have similar responsibilities. For services available in Montana, insurers are not required to pay facilities located outside Montana rates that are greater than those allowed for services delivered in Montana.

(4) The percentage increase in medical costs payable under this chapter may not exceed the annual percentage increase in the state's average weekly wage as defined in 39-71-116.

(5) Payment pursuant to reimbursement agreements between managed care organizations or preferred provider organizations and insurers is not bound by the provisions of this section.

(6) Disputes between an insurer and a medical service provider regarding the amount of a fee for medical services must be resolved by a hearing before the department upon written application of a party to the dispute.

(7) (a) After the initial visit, the worker is responsible for 20%, but not to exceed \$10, of the cost of each subsequent visit to a medical service provider for treatment relating to a compensable injury or occupational disease, unless the visit is to a medical service provider in a managed care organization as requested by the insurer or is a visit to a preferred provider as requested by the insurer.

(b) After the initial visit, the worker is responsible for \$25 of the cost of each subsequent visit to a hospital emergency department for treatment relating to a compensable injury or occupational disease.

(c) "Visit", as used in subsections (7)(a) and (7)(b), means each time the worker obtains services relating to a compensable injury or occupational disease from:

- (i) a treating physician provider;
- (ii) a physical therapist;
- (iii) a psychologist; or
- (iv) hospital outpatient services available in a nonhospital setting.

(d) A worker is not responsible for the cost of a subsequent visit pursuant to subsection (7)(a) if the visit is an examination requested by an insurer pursuant to 39-71-605."

Section 5. Section 39-71-711, MCA, is amended to read:

"39-71-711. Impairment evaluation -- ratings. (1) An impairment rating:

(a) is a purely medical determination and must be determined by an impairment evaluator after a claimant has reached maximum healing;

(b) must be based on the current edition of the Guides to Evaluation of Permanent Impairment published by the American medical association;

(c) must be expressed as a percentage of the whole person; and

(d) must be established by objective medical findings.

(2) A claimant or insurer, or both, may obtain an impairment rating from an evaluator who is a medical doctor or from an evaluator who is a chiropractor if the injury falls within the scope of chiropractic practice. If the claimant and insurer cannot agree upon the rating, the mediation procedure in part 24 of this chapter must be followed.

(3) An evaluator must be a physician licensed under Title 37, chapter 3, except if the claimant's treating physician provider is a chiropractor, the evaluator may be a chiropractor who is certified as an evaluator under chapter 12.

(4) Disputes over impairment ratings are not subject to 39-71-605."

Section 6. Section 39-71-1101, MCA, is amended to read:

"39-71-1101. Choice of physician providers by worker -- change of physician provider -- receipt of care from managed care organization. (1) Subject to subsection (3), a worker may choose the initial treating physician provider within the state of Montana.

(2) Authorization by the insurer is required to change treating physicians providers. If authorization is not granted, the insurer shall direct the worker to a managed care organization, if any, or to a medical service provider who qualifies as a treating physician provider, who shall then serve as the worker's treating physician provider.

(3) A medical service provider who otherwise qualifies as a treating physician provider but who is not a member of a managed care organization may not provide treatment unless authorized by the insurer if:

(a) the injury results in a total loss of wages for any duration;

(b) the injury will result in permanent impairment;

(c) the injury results in the need for a referral to another medical provider for specialized evaluation or treatment; or

(d) specialized diagnostic tests, including but not limited to magnetic resonance imaging, computerized axial tomography, or electromyography, are required.

(4) A worker whose injury is subject to the provisions of subsection (3) shall, unless otherwise authorized by the insurer, receive medical services from the managed care organization designated by the insurer, in accordance with 39-71-1104. The designated treating ~~physician~~ provider in the managed care organization then becomes the worker's treating ~~physician~~ provider. The insurer is not liable for medical services obtained otherwise, except that a worker may receive immediate emergency medical treatment for a compensable injury from a medical service provider who is not a member of a managed care organization."

Section 7. Section 39-71-1102, MCA, is amended to read:

"39-71-1102. Preferred provider organizations -- establishment -- limitations. In order to promote cost containment of medical care provided for in 39-71-704, development of preferred provider organizations by insurers is encouraged. Insurers may establish arrangements with suppliers of soft and durable medical goods and medical providers in addition to or in conjunction with managed care organizations. Workers' compensation insurers may contract with other entities to use the other entities' preferred provider organizations. After the date that a worker is given written notice by the insurer of a preferred provider, the insurer is not liable for charges from nonpreferred providers. This section does not prohibit the worker from choosing the initial treating ~~physician~~ provider under 39-71-1101(1)."

Section 8. Section 39-71-1105, MCA, is amended to read:

"39-71-1105. Managed care organizations -- application -- certification. (1) A health care provider, a group of medical service providers, or an entity with a managed care organization may make written application to the department to become certified under this section to provide managed care to injured workers for injuries that are covered under this chapter or for occupational diseases that are covered under the Occupational Disease Act of Montana. However, this section does not authorize an organization that is formed, owned, or operated by a workers' compensation insurer or self-insured employer other than a health care provider to become certified to provide managed care. When a health care provider, a group of medical service providers, or an entity with a managed care organization is establishing a managed care organization and independent physical therapy practices exist in the community, the managed care

1 organization is encouraged to utilize independent physical therapists as part of the managed care
2 organization if the independent physical therapists agree to abide by all the applicable requirements for a
3 managed care organization set forth in this section, in rules established by the department, and in the
4 provisions of a managed care plan for which certification is being sought.

5 (2) Each application for certification must be accompanied by an application fee if prescribed by
6 the department. A certificate is valid for the period prescribed by the department, unless it is revoked or
7 suspended at an earlier date.

8 (3) The department shall establish by rule the form for the application for certification and the
9 required information regarding the proposed plan for providing medical services. The information includes
10 but is not limited to:

11 (a) a list of names of each individual who will provide services under the managed care plan
12 together with appropriate evidence of compliance with any licensing or certification requirements for that
13 individual to practice in the state;

14 (b) names of the individuals who will be designated as treating ~~physicians~~ providers and who will
15 be responsible for the coordination of medical services;

16 (c) a description of the times, places, and manner of providing primary medical services under the
17 plan;

18 (d) a description of the times, places, and manner of providing secondary medical services, if any,
19 that the applicants wish to provide; and

20 (e) satisfactory evidence of the ability to comply with any financial requirements to ensure delivery
21 of service in accordance with the plan that the department may require.

22 (4) The department shall certify a group of medical service providers or an entity with a managed
23 care organization to provide managed care under a plan if the department finds that the plan:

24 (a) proposes to provide coordination of services that meet quality, continuity, and other treatment
25 standards prescribed by the department and will provide all primary medical services that may be required
26 by this chapter in a manner that is timely and effective for the worker;

27 (b) provides appropriate financial incentives to reduce service costs and utilization without
28 sacrificing the quality of services;

29 (c) provides adequate methods of peer review and service utilization review to prevent excessive
30 or inappropriate treatment, to exclude from participation in the plan those individuals who violate these

treatment standards, and to provide for the resolution of any medical disputes that may arise;

(d) provides for cooperative efforts by the worker, the employer, the rehabilitation providers, and the managed care organization to promote an early return to work for the injured worker;

(e) provides a timely and accurate method of reporting to the department necessary information regarding medical and health care service cost and utilization to enable the department to determine the effectiveness of the plan;

(f) authorizes workers to receive medical treatment from a primary care physician provider who is not a member of the managed care organization but who maintains the worker's medical records and with whom the worker has a documented history of treatment, if that primary care physician provider agrees to refer the worker to the managed care organization for any specialized treatment, including physical therapy, that the worker may require and if that primary care physician provider agrees to comply with all the rules, terms, and conditions regarding services performed by the managed care organization. As used in this subsection (f), "primary care physician" provider" means a physician provider who is qualified to be a treating physician provider and who is a family practitioner, a general practitioner, an internal medicine practitioner, or a chiropractor, or an advanced practice registered nurse.

(g) complies with any other requirements determined by department rule to be necessary to provide quality medical services and health care to injured workers.

(5) The department shall refuse to certify or may revoke or suspend the certification of a health care provider, a group of medical service providers, or an entity with a managed care organization to provide managed care if the department finds that:

- (a) the plan for providing medical care services fails to meet the requirements of this section; and
- (b) service under the plan is not being provided in accordance with the terms of a certified plan."

Section 9. Section 39-71-1106, MCA, is amended to read:

"39-71-1106. Compliance with medical treatment required -- termination of compensation benefits for noncompliance. An insurer that provides 14 days' notice to the worker and the department may terminate any compensation benefits that the worker is receiving until the worker cooperates, if the insurer believes that the worker is unreasonably refusing:

- (1) to cooperate with a managed care organization or treating physician provider;
- (2) to submit to medical treatment recommended by the treating physician provider, except for

1 invasive procedures; or

2 (3) to provide access to health care information to medical providers, the insurer, or an agent of
3 the insurer."

4
5 **Section 10.** Section 39-71-1107, MCA, is amended to read:

6 **"39-71-1107. Domiciliary care -- requirements -- evaluation.** (1) Reasonable domiciliary care must
7 be provided by the insurer:

8 (a) from the date the insurer knows of the employee's need for home medical services that result
9 from an industrial injury;

10 (b) when the preponderance of credible medical evidence demonstrates that nursing care is
11 necessary as a result of the accident and describes with a reasonable degree of particularity the nature and
12 extent of duties to be performed;

13 (c) when the services are performed under the direction of the treating physician provider who
14 following a nursing analysis, prescribes the care on a form provided by the department;

15 (d) when the services rendered are of the type beyond the scope of normal household duties; and

16 (e) when subject to subsections (3) and (4), there is a means to determine with reasonable
17 certainty the value of the services performed.

18 (2) When a worker suffers from a condition that requires domiciliary care, which results from an
19 accident, and requires nursing care as provided for in Title 37, chapter 8, a licensed nurse shall provide
20 services.

21 (3) When a worker suffers from a condition that requires 24-hour care and that results from an
22 accident but that requires domiciliary care other than as provided in Title 37, chapter 8, the care may be
23 provided by a family member. The insurer's responsibility for reimbursement for the care is limited to
24 more than the daily statewide average medicaid reimbursement rate for the current fiscal year for care in
25 a nursing home. The insurer is not responsible for respite care.

26 (4) Domiciliary care by a family member that is necessary for a period of less than 24 hours a day
27 may not exceed the prevailing hourly wage, and the insurer is not liable for more than 8 hours of care per
28 day."

29
30 **Section 11.** Section 39-71-1108, MCA, is amended to read:

"39-71-1108. **Physician Provider self-referral prohibition.** (1) Unless authorized by the insurer, a treating physician provider may not refer a claimant to a health care facility at which the physician provider does not directly provide care or services when the physician provider has an investment interest in the facility, unless there is a demonstrated need in the community for the facility and alternative financing is not available. The insurer or the claimant is not liable for charges incurred in violation of this section.

(2) Subsection (1) does not apply to care or services provided directly to an injured worker by a treating physician provider with an ownership interest in a managed care organization that has been certified by the department."

Section 12. Section 39-72-303, MCA, is amended to read:

"39-72-303. **Which employer liable.** (1) Where compensation is payable for an occupational disease, the only employer liable is the employer in whose employment the employee was last injuriously exposed to the hazard of the disease.

(2) When there is more than one insurer and only one employer at the time the employee was injuriously exposed to the hazard of the disease, the liability rests with the insurer providing coverage at the earlier of:

(a) the time the occupational disease was first diagnosed by a treating physician provider or medical panel; or

(b) the time the employee knew or should have known that the condition was the result of an occupational disease.

(3) In the case of pneumoconiosis, any coal mine operator who has acquired a mine in the state or substantially all of the assets of a mine from a person who was an operator of the mine on or after December 30, 1969, is liable for and shall secure the payment of all benefits that would have been payable by that person with respect to miners previously employed in the mine if acquisition had not occurred and that person had continued to operate the mine, and the prior operator of the mine is not relieved of any liability under this section."

NEW SECTION. Section 13. Code commissioner instruction. Wherever a reference to "treating physician" or "primary care physician" is used in reference to Title 39, chapters 71 or 72, in legislation enacted by the 1997 legislature, the code commissioner is directed to change it to an appropriate reference

1 to "treating provider" or "primary care provider", respectively.

2 -END-

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on February 14, 1997, at 8:00 AM, in Room 104.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Paul Sliter, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Charles R. Devaney (R)
Rep. David Ewer (D)
Rep. Kim Gillan (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Rod Marshall (R)
Rep. Gay Ann Masolo (R)
Rep. Wes Prouse (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Joe Tropila (D)
Rep. Carley Tuss (D)

Members Excused: None

Members Absent: None

Staff Present: Stephen Maly, Legislative Services Division
Pati O'Reilly, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 517; HB 457; HB 519; HB
447; HB 445 (2/11/97)

Executive Action: HB 445; HB 349; HB 473; HB 488; HB 492;
HB 457; HB 435; HB 78; HB 240

HEARING ON HB 457

Opening Statement by Sponsor: Rep. Adams H.D. 84 introduced the bill. EXHIBIT 5.

{Tape: 1; Side: 2; Approx. Time Count: 15.9; Comments: None.}

Proponents' Testimony:

Frank Cote, Deputy Insurance Commissioner, State Auditors Office

{Tape: 1; Side: 2; Approx. Time Count: 18.9; Comments: None.}

Opponents' Testimony:

Ron Asheburner, State Farm Ins.

{Tape: 1; Side: 2; Approx. Time Count: 20.1; Comments: None.}

Roger McGlenn, Ind. Ins. Agents

{Tape: 1; Side: 2; Approx. Time Count: 24.7; Comments: None.}

Questions From Committee Members and Responses:

{Tape: 1; Side: 2; Approx. Time Count: 26.3; Comments: None.}

Closing by Sponsor: Rep. Adams closed.

{Tape: 1; Side: 2; Approx. Time Count: 37.3; Comments: None.}

HEARING ON HB 519

Opening Statement by Sponsor: Rep. Wyatt, H.D. 43 introduced the bill.

{Tape: 2; Side: 1; Approx. Time Count: 0.0; Comments: None.}

Proponents' Testimony:

Steve Shapiro, Reg. Nurses Assn. EXHIBIT 6.

{Tape: 2; Side: 1; Approx. Time Count: 3.0; Comments: None.}

Barbara Booher, MT Nursing Assn. EXHIBITS 7 AND 8.

{Tape: 2; Side: 1; Approx. Time Count: 7.8; Comments: None.}

Donna Bristol, Family Nurse Assn.

{Tape: 2; Side: 1; Approx. Time Count: 12.2; Comments: None.}

Opponents' Testimony:

Nancy Butler, Workmen's Comp. State Fund

{Tape: 2; Side: 1; Approx. Time Count: 16.2; Comments: None.}

Don Allen, Coalition of Workers Comp

{Tape: 2; Side: 1; Approx. Time Count: 19.9; Comments: None.}

Questions From Committee Members and Responses:

{Tape: 2; Side: 1; Approx. Time Count: 26.; Comments: None.}

Closing by Sponsor: Rep. Wyatt closed.

{Tape: 2; Side: 2; Approx. Time Count: 13.8; Comments: None.}

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & LABOR

Call to Order: By CHAIRMAN BRUCE SIMON, on February 19, 1997, at
8:00 AM, in Room 104

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Paul Sliter, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Charles R. Devaney (R)
Rep. David Ewer (D)
Rep. Kim Gillan (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Rod Marshall (R)
Rep. Gay Ann Masolo (R)
Rep. Wes Prouse (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Joe Tropila (D)
Rep. Carley Tuss (D)

Members Excused: None

Members Absent: None

Staff Present: Stephen Maly, Legislative Services Division
Pati O'Reilly, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: None

Executive Action: HB 78; HB 442; HB 519; HB 513;
HB 517; HB 539; HB 541; HB
543; HB 545; HB 252; HB 500;

EXECUTIVE ACTION ON HB 78

Motion: Rep. Devaney moved do pass HB 78

{Tape: 1; Side: 1; Approx. Time Count: .0; Comments: None.}

Motion/Vote: Rep. Devaney moved to adopt Simpkins amendments.
Carried 15-4. Masolo, Squires, Pavlovich and Ewer voted no.

{Tape: 1; Side: 1; Approx. Time Count: 2.2; Comments: None}

Motion: Rep. Devaney moved do pass HB 78 as amended.

{Tape: 1; Side: 1; Approx. Time Count: 6.0; Comments: None.}

Motion/Vote: Rep. Pavlovich substitute amendment to Table HB 78.
Motion passed roll call vote 16-1. Reps. Sliter and Gillan
absent. Rep. Simon voted no.

{Tape: 1; Side: 1; Approx. Time Count: 6.8; Comments: None.}

EXECUTIVE ACTION ON HB 442

Motion: Rep. Pavlovich moved do pass HB 442.

{Tape: 1; Side: 1; Approx. Time Count: 9.2; Comments: None.}

Motion/Vote: Rep. Pavlovich moved to adopt Menahan amendments.
Carried unanimously.

{Tape: 1; Side: 1; Approx. Time Count: 9.7; Comments: None.}

Motion/Vote: Rep. Pavlovich moved do pass HB 442 as amended.
Motion failed 6-12. Rep. Gillan absent.

{Tape: 1; Side: 1; Approx. Time Count: 11.0; Comments: None.}

Motion/Vote: Rep. Devaney moved to Table HB 442. Motion carried
13-5. Rep. Gillan absent.

{Tape: 1; Side: 1; Approx. Time Count: 14.9; Comments: None.}

EXECUTIVE ACTION ON HB 519

Motion: Rep. Tuss moved do pass HB 519.

{Tape: 1; Side: 1; Approx. Time Count: 16.5; Comments: None.}

Motion/Vote: Rep. Simon moved to adopt Simon amendments. Motion
carried unanimously.

{Tape: 1; Side: 1; Approx. Time Count: 16.6; Comments: None.}

Discussion:

{Tape: 1; Side: 1; Approx. Time Count: 17.6; Comments: None.}

Motion/Vote: Rep. Simon moved do pass HB 519 as amended. Motion
carried roll call vote 13-5. Rep. Sliter absent.

SENATE LABOR & EMPLOYMENT RELATIONS

Page 2

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0519	WYATT, DIANA	CERTAIN ADVANCED PRACTICE REG. NURSE AS TREATING PROVIDER FOR WORK COMP							
	3/06	3/18	TABLED	3/20	CONCUR AS AMENDED	3/27	VOTE: 5-4		4/04
HJ0010	HIBBARD, CHASE	OPTIONAL APPROACHES TO RESOLVING EMPLOYMENT DISPUTES							
	2/11	3/04			CONCUR	3/06	VOTE: 9-0		3/07
SB0003	NELSON, LINDA	REVISE INDEPENDENT CONTRACTOR EXEMPTION AND REGISTRATION FEES							
	12/27	1/07	01/21		TABLED ON	1/31	VOTE: 8-1		
SB0005	HOLDEN, RIC	REPEAL CONTRACTOR REGISTRATION							
	12/27	1/09	01/21		TABLED ON	1/31	VOTE: 9-0		
SB0041	BENEDICT, STEVE	TRANSFER JURISDICTION TO WC COURT AND ELIMINATING UNDERINSURED STATUTES							
	1/03	1/28			PASS AS AMENDED	2/06	VOTE: 7-0		2/11
SB0045	HOLDEN, RIC	REVISE CONTRACTOR REGISTRATION							
	1/03	1/09	01/21	01/30	PASS AS AMENDED	2/04	VOTE: 8-1		2/07
SB0062	SPRAGUE, MIKE	CLARIFY PAYMENT OF REHABILITATION BENEFITS TO DISABLED WORKERS							
	1/03	1/14			PASS AS AMENDED	1/23	VOTE: 9-0		1/24
SB0067	BENEDICT, STEVE	REVISION OF WORKERS' COMPENSATION LAWS							
	1/03	2/15			PASS AS AMENDED	2/15	VOTE: 9-0		2/18
SB0098	THOMAS, FRED	AUTHORIZING BOARD OF REGENTS TO ELECT COVERAGE UNDER PLAN NO. 1, 2, OR 3							
	1/03	1/16			PASS AS AMENDED	2/04	VOTE: 6-3		2/06
SB0120	MAHLUM, DALE	EXCEPTION FOR PAYMENT OF UNPAID WAGES COVERED BY EMPLOYER'S POLICY MANUAL							
	1/03	1/16			PASS AS AMENDED	1/23	VOTE: 9-0		1/24
SB0185	LYNCH, J. D.	ELIMINATE THE OLD FUND LIABILITY TAX ON EMPLOYEES/EMPLOYERS ON JAN. 1, 1998							
	1/16	1/23			TABLED ON	2/04	VOTE: 6-2		
SB0225	DEVLIN, GERRY	ELIMINATE MANDATORY ARBITRATION ON IMPASSE FOR FIREFIGHTERS AND EMPLOYERS							
	1/25	2/11			NO ACTION TAKEN		VOTE:		

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By CHAIRMAN THOMAS F. KEATING, on March 18, 1997,
at 3:32 P.M., in 413/415.

ROLL CALL

Members Present:

Sen. Thomas F. Keating, Chairman (R)
Sen. James H. "Jim" Burnett, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Benedict (R)
Sen. C.A. Casey Emerson (R)
Sen. Dale Mahlum (R)
Sen. Debbie Bowman Shea (D)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Eddy McClure, Legislative Services Division
Janice Soft, Substitute Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 517; 3-5-97
HB 519; 3-7-97
Executive Action: HB 101 Do Concur As Amended
HB 341 Do Concur
HB 447 Do Concur As Amended

HEARING ON HB 517

Sponsor: REP. STEVE VICK, HD 31, Belgrade

Proponents: David Owen, Montana Chamber of Commerce

Opponents: None

Informational Testimony: Ed Argenbright, Commissioner of
Political Practices

SEN. BENEDICT asked REP. VICK if it would be in the realm of possibility to believe a large utility company with many employees from year to year might support certain pro-business stances, then one year decided they are going to support an environmental stance, then you would need to be able to review from year to year their positions and make the appropriate change.

REP. VICK responded this would certainly serve as a reason for the contribution to be looked into.

SEN. MAHLUM asked Dulcy Hubbard where the bill states the money may be diverted to a political party or by a candidate chosen by the corporation, isn't it illegal for a corporation to give money to a candidate directly?

Ms. Hubbard responded it is illegal for a corporation to give directly to a candidate but if the employee's money or dues are being put into the pack, if the corporation has a pack, that pack can give those monies to a candidate.

SEN. MAHLUM asked what happens in regards to a small business which doesn't have a pack?

Ms. Hubbard said they cannot give to candidates. She thinks the amendments REP. VICK proposed has taken that portion out, so that it will say "for the purposes of influencing the outcome of election". It is deleting that whole section which talks about those candidates.

Closing by Sponsor:

REP. VICK said there is certain amount of difficulty which comes with campaign finances. It is a very complicated issue and there are different ethics laws and campaign finance laws.

He believes this is a very important issue which affects the outcome of not only elections, but policy. He thinks this is an important tool for employees to have. He asked the Committee for a do concur on HB 517.

HEARING ON 519

Sponsor: REP. DIANE WYATT, HD 43, GREAT FALLS

Proponents: Steven Shapiro, Montana Advanced Practice Nurses Association
Barbara Booher, Montana Nurses Association
Donna Bristow, Advanced Practice Registered Nurse
Jerry Lindorff, Montana Medical Association
Kip Smith, Montana Primary Care Association

Opponents: Nancy Butler, State Fund
Jacqueline Lenmark, American Insurance Association

Bob Worthington, Montana Municipal Insurance
Authority

Don Allen, Coalition Workers' Compensation System
Improvement

Opening Statement by Sponsor:

REP. DIANE WYATT, HD 43, Great Falls, is an act following advanced practice registered nurse, a nurse practitioner or a clinical nurse specialist to provide services as a training provider and a primary care provider under the Workers' Compensation Act, changing the term 'treating physician' to 'treating provider' and 'primary care physician' to 'primary care provider' and amending sections of the code that refers to that.

She said this bill totally deals with clinical nurse specialists with treating people under the Workers' Compensation Act.

Proponents' Testimony:

Stephen Shapiro, Montana Advanced Practice Nurses Association, stated this bill was already heard in the House and passed through with a vote of 89 to 9. He said in the Committee it was determined appropriate the amendment be proposed to indicate we are specifically dealing with clinical nurse specialists and nurse practitioners. There are some other categories of advanced nurses they determined did not really apply as primary providers in the Workers' Compensation Act.

Mr. Shapiro said previous to 1993, the Workers' Compensation Act did not define treating physician but left it up to the insurers to make appropriate payments to those health care providers for services provided for injuries to workers under the Act. In 1993, there was a list of authorized providers inserted in the Act under the definition of treating physician. Those include physicians as in M.D., Chiropractor, Physician Assistant in areas where a medical doctor is not available, also, Osteopath and Dentist. The Advanced Nurses of any kind were omitted from that list which they believed were inexplicable in light of the services which are available from Advanced Practice Registered Nurses. (EXHIBIT 2)

He believes we have a health care profession that can provide a service to the Workers' Compensation program that is exactly what is being talked about in the various reforms and amendments for the past dozen years. We want to save money in the Workers' Compensation program, get the workers back to work in a timely manner, and the nurses can certainly contribute greatly to that. Mr. Shapiro thinks there are many good reasons to include Advanced Nurses in the Workers' Compensation Act and he asked the committee to support the bill.

Barbara Booher, Executive Director, Montana Nurses' Association, said they represent approximately 1,500 registered nurses who

practice nursing across the State of Montana. She presented (EXHIBIT 3).

She said one of the other proponents on this legislation has an amendment which her organization supports **Donna Bristow, Advanced Practice Registered Nurse, Helena**, said she has experienced being locked out of being a provider for Workers' Compensation clients.

She stated she received a bachelor's degree in nursing from Montana State University in 1987. The University began a program to obtain a master's degree in 1993 and she graduated from that program last summer and has been working in a Helena office since that time.

Ms. Bristow stated with Nurse Practitioner education there is an underlying thread through all of the courses they take on health promotion and prevention. To her that is clearly what the Workers' Compensation program is looking for.

She is in a collaborative practice with six physicians and a physician's assistant. She is open to treating Workers' Compensation patients and gave examples of people coming into her office.

She also knows of a health care provider in Troy, Montana who is the only provider in that area who cannot treat Workers' Compensation patients. If there is an industrial injury, the injured party has to leave that area and go elsewhere to be treated.

Ms. Bristow said she is concerned about her clients not herself. She said she has a full schedule every day and is not losing money over this, she just gets frustrated when people need to be treated and she does have an opening.

Jerry Lindorff, Montana Medical Association, presented an amendment to HB 519. (EXHIBIT 4) He said the amendment provides Workers' Compensation services to work in collaboration with the physician.

They present this because that is how the two professionals generally work together. They work together and make decisions in a manner they respect one another's qualifications and well as getting to know one another's individual abilities, what each can and can't do and can refer different cases to one another.

Mr. Lindorff stated the nurses in this situation, when they are working in collaboration with the physician, it makes it difficult to run a practice if somebody comes in for services. He said, for example, if they are in an automobile accident they cannot be treated by a nurse practitioner. This bill also satisfies the concerns of the other proponents.

Kip Smith, Associate Director, Montana Primary Care Association, said they are an association of health care providers from across the state which provide care in rural areas. They think this proposal with the amendment are very appropriate in terms of expanding the definition of treating provider.

{Tape: 1; Side: B; Approx. Time Count: 4:16 p.m.}

Opponents' Testimony:

Nancy Butler, State Fund, said they oppose this bill because they want to continue to stand in support of SB 347, the Workers' Compensation medical cost containment bill which was passed in 1993.

She stated SB 347 bill helped both the system and the State Fund. Those changes have helped turn the State Fund around so that it is reducing rates instead of increasing them. The bill provided a list of which providers could be considered treating physicians in treating injured workers. A treating physician under the Workers' Compensation Act is one who is primarily responsible for the treatment of the worker's injury. This list includes physicians, chiropractors, physician's assistants if they are practicing in an area where there is not a physician, osteopaths and dentists.

Ms. Butler said the purpose behind SB 347 was a "gatekeeper" approach which is to ensure that a worker is cared for by an abled provider who can provide and manage all services to that worker and then continue to oversee that care as it progresses. She said this is particularly effective for Workers' Compensation. If a treating physician declares that a worker is unable to work, they also pay wage benefits. So there is an extra cost which is not exposed. They would like to get the injured worker back to work as soon as possible, and if that is not accomplished, it becomes more expensive.

She said once it is opened up to other medical providers, the list is inexhaustible. It might include optometrists, acupuncturists, podiatrists, psychologists, and a number of other providers who might want a similar approach. This would dilute the gatekeeper approach we have worked hard to maintain.

She also stated that surrounding states, North Dakota, Oregon, Utah, Idaho and Wyoming, require Advanced Practice Nurses to work under the supervision of a physician. They don't allow them to have treating physician status.

Ms. Butler addressed some of the comments made by the proponents' testimony. She said the State Fund as well as other insurers take the same approach. If a worker walks in and a nurse practitioner is there, those bills are paid under Workers' Compensation. The worker is sent a letter after the bill is paid which states they need to seek treatment with a treating physician in the future.

The State Fund asks for a do not concur on HB 519.

Jacqueline Lenmark, American Insurance Association, (AIA), said they oppose this bill. She said the gatekeeper approach currently in law was developed and targeted to swift treatment for traumatic injury. This gatekeeper concept in the Workers' Compensation Act is not serving the same purpose which it serves in other health insurance context.

She said in regards to the proponent which stated the treatment and focus of her practice which was for prevention and health promotion, Workers' Compensation treatment is after-the-fact treatment after the injury, and it is for that reason that they take a different philosophy for the gatekeeper approach in the Workers' Compensation Act. **AIA** does not propose the use of nurse practitioners as part of the treatment team.

Ms. Lenmark believes the licensing difference between licensed physician's assistants and nurse practitioners is critical to the committee's consideration of this bill. A physician's assistant's license is tied to their work with a physician.

She stated as she listened to the proponent's testimony it appeared to her that one of the primary problems that needed to be addressed is reimbursement. Although **Ms. Lenmark** stands as an opponent, she thinks there are amendments that might address that specific issue of reimbursement. She is not aware of any wide-spread practice which denies reimbursement to nurse practitioners if the gatekeeper approach is properly utilized. If there is an isolated incident or two or if it is occurring frequently, she believes it should be addressed.

Ms. Lenmark said they specifically oppose changing the term 'physician' to provider throughout. She believes that implies a specific definition and they would like the term 'physician' to imply and that concern is heightened by recent Supreme Court decisions taking that definition and applying them in other contexts in the Workers' Compensation Act.

They believe the proposed amendment is a good amendment, but they believe it does not go the full distance. As the bill stands, currently, they do oppose it.

Bob Worthington, Programs Administrator, Montana Municipal Insurance Authority, said that they would like to go on record as being opposed to changing the language in the statute from treating physician to treating provider because of the gatekeeper issue.

He also stated they are the insurers for the City of Troy which have only the treatment of a nurse practitioner available. They recognize and pay for her services on a first call basis. They are very concerned about injured workers not receiving proper treatment on an immediate basis. He said the City of Billings

has made an arrangement with the Deaconess Hospital and on first call injured workers are treated by nurses.

But for the reasons already mentioned from the gatekeeper standpoint and the change in the treating physician language, they are opposed to HB 519.

George Wood, Executive Secretary, Montana Self-Insurers' Association, rose in opposition to this bill. He said **Ms. Lenmark** and **Ms. Butler** have adequately covered the reasons for opposition.

He stated their concern is not what they have heard about the nurse practitioners treating in hospitals, clinics or doctors offices. They recommend to their members to reimburse these providers at 80%.

Their concern is with this bill that they could become primary and therefore, responsible for the treatment of traumatic injury to the injured worker from beginning to end.

Also, **Mr. Wood** stated as this bill is written, it would allow the nurse practitioner to set up a private office. The amendment wouldn't allow that, as they would have to work in collaboration, but their concern about them treating traumatic injuries as a private, primary physician. They would like to say their employees are treated by an attending physician, not by a provider.

Don Allen, Coalition For Workers' Compensation System Improvement, said part of the 1993 movement was to get costs under control and to put legislation in place which would get a handle on how to control those costs, not only in safety but also under the medical costs.

He also stated getting away from the gatekeeper approach is the most important reason they oppose this bill. Also, the change of treating physician to provider opens this up to other providers. The wage loss control issue versus the health care issue is another reason they oppose it.

Questions From Committee Members and Responses:

SEN. STEVE BENEDICT asked **Donna Bristow**, keeping in mind that Workers' Compensation is a different type of treating practice from a wellness practice, was she qualified to read X-rays.

Ms. Bristow answered she is.

SEN. BENEDICT asked if she is medically qualified to develop a treatment plan for a ruptured spleen or knee injury and oversee the treatment of an individual.

Ms. Bristow answered she could.

SEN. BENEDICT asked if she were qualified to be a treating physician.

Ms. Bristow answered she is not a surgeon or an orthopedist but she can make the referral.

SEN. BENEDICT said he is not interested in whether or not Ms. Bristow can make a referral, he is questioning whether she can develop a treatment plan for patients that will rehabilitate them and get them back to an early return to work. He said when he hears the word 'referral', she has the ability, possibly from the insurance companies to make that initial acute care treatment and then refer them anyway. He told Ms. Bristow this bill contemplates allowing her to be a treating physician.

Ms. Bristow answered within her scope of practice she is qualified to treat someone with a minor knee injury.

SEN. BENEDICT asked if she is qualified to be a treating physician.

Ms. Bristow said no, she is not a physician.

SEN. CASEY EMERSON said when George Wood spoke he said a provider could set up their own practice and get paid by Workers' Compensation which was wrong. SEN. EMERSON said maybe a patient should have the choice to go to that person or to a regular doctor and asked Mr. Wood what he thought of the patient making a decision.

George Wood responded if this bill passes, the patient will have the choice. He said that isn't the issue, if you are going to expand the definition of provider, then you need to give to whoever pays the bill the right to reject certain providers. Mr. Wood stated we do not have the right to reject an attending physician but we should have the right. He said they do not object to the qualifications of this as a referral and working with the physician. But they do object to them having their own office and then being able to refer traumatic injuries because it increases Workers' Compensation costs.

SEN. DALE MAHLUM asked George Wood under the present way of doing things, this bill suggests having an Advanced Practice Registered Nurse take care of patients, would this bill save money on claims?

Mr. Wood responded when they are working in collaboration with physicians in hospitals, the use of the nurse practitioner is of cost advantage. Whether the cost advantage is being passed on to the third party payer is of question.

SEN. SUE BARTLETT asked Nancy Butler about the differences she specified between the licensing of physician's assistants and the licensing of advanced practice nurse.

Ms. Butler said in order for a physician's assistant to practice in Montana, has to be supervised by a physician and an advanced practice nurse does not have to be tied to a supervisory position.

SEN. BARTLETT said she is having trouble feeling convinced by the opponents. She asked **Ms. Butler** what the root concern is, if they are just concerned about opening up treating physician to any other category of health care provider.

Ms. Butler responded that is part of the concern, but they are also trying to keep that treating physician list as precise as possible so that actual gatekeeper approach can be maintained. She said they are trying to reduce referrals and delays between treatments. They have had injured workers go from one health care provider until their resources are exhausted, then they go to another health care provider, and they order a duplication of tests, etc. The work in 1993 was to find out what needed to be done to help get a handle on wage loss benefits and get workers back to work.

SEN. BARTLETT asked if there are other qualified medical providers, why would they object to adding those to the list of treating physicians? She said the way the system is set up it is not a question of someone going from one provider to another to another now at all. But there is this gatekeeper approach and if there are other qualified medical providers who could serve as that gatekeeper, why would there be an objection to adding them to the list of who can be a treating physician?

Ms. Butler responded the scope of other practices are not as broad as a physician, consequently, you would find necessity for referral by the nurse practitioner. It is not that they are trying to exclude providers from the care of workers. The treating physician is responsible for deciding what kind of care is necessary. That is where physical therapists and psychologists and all the other types of providers come in under the coordination of that gatekeeper. She said they want the gatekeeper to be able to fill as much of that coordination as possible, not treat to a point and then refer.

SEN. BARTLETT asked if the proposed amendment by **Mr. Lindorff** address a significant portion of the concern?

Ms. Butler responded the main concern she had was how collaboration is defined. If it means in the clinic, with the physician, working with them, then it is not a problem. It does not need to be listed in the treating physician list.

SEN. BARTLETT said one of her concerns is that there are places in the state as the Troy situation was cited, where the LPN is the medical provider. It seems to her that at a minimum, doesn't it seem appropriate to provide that APRNs who are in an area

where there is not a position that under those circumstances could be a treating physician for Workers' Compensation purposes.

Ms. Butler responded she thought about this in the past and it makes sense that those workers be treated. Her underlying concern has been who is in the supervising position. She is understanding of the nurse's role.

SEN. BARTLETT asked if those two concerns could be met, one, that in an area there is not a physician available and two, that for the purposes of Workers' Compensation cases there would be a cooperative partnership arrangement at a minimum with the physician at least by telephone, would she object to allowing APRNs under those circumstances?

Ms. Butler responded with the supervision, her concerns would be diminished.

SEN. BILL WILSON asked Donna Bristow the definition of an advanced practice nurse.

Ms. Bristow answered she is a registered nurse with experience in the hospital and private practice. In their primary care programs they do advanced work in several areas. In primary care in the County Nurse Practitioner Program, they take care of primary care outpatients from birth to death. So it is an advanced training course.

SEN. WILSON asked if it is over and above the Bachelor of Science degree she now holds?

Ms. Bristow answered it is.

SEN. WILSON said so typically these nurses are at a Master's level?

Ms. Bristow responded that since January of 1995 in order to be licensed in the State of Montana you have to have a Master's degree.

SEN. WILSON said so if he is an injured worker and he goes to Ms. Bristow for treatment, will she charge the same as a doctor?

Ms. Bristow answered the billing amount is the same, by level of service for the clinic with the understanding that Medicaid, Medicare, and Workers' Compensation pay at 80 to 85% of the billing fee.

Closing by Sponsor:

REP. WYATT said she had to take the responsibility of treating provider instead of treating physician on the advise of legislative counsel so as not to offend physicians, etc. The

Workers' Compensation Act defines the treating persons. They are asking that Advanced Practice Registered Nurses be one of those.

She stated that Advanced Practice Registered Nurses were previously known as nurse specialists. They have completed educational requirements for registered professional nurses and have obtained additional educational requirements.

REP. WYATT said this bill had overwhelming support in the rural areas and also it is a cost-containment mechanism for the Workers' Compensation system because we get the immediate response with treatment. If referral is necessary then they certainly have the credentials and medical determinations not to practice out of their scope of practice. The physician will still be in control of the decision about when that person is ready for work.

She asked the Committee for support of HB 519.

{Tape: 1; Side: B; Approx. Time Count: 4:56 p.m.}

EXECUTIVE ACTION ON HB 101

Amendments: HB010101.AEM (EXHIBITS 5 & 5A)

Motion: SEN. JIM BURNETT moved that HB 101 be concurred in.

Discussion: SEN. BENEDICT asked Eddy McClure if the amendments are contained in EXHIBIT 5?

Ms. McClure answered she typed each section of the bill with changes in EXHIBIT 5A. She said SEN. BARTLETT was concerned that what was drafted was not really reflected in the language so they have had several meetings to narrow the scope of the language.

Ms. McClure commented on the amendments displayed in EXHIBIT 5A.

Motion/Vote: SEN. BENEDICT moved the amendments be added to HB 101 which passed unanimously by voice vote.

Vote: HB 101 was voted to be concurred in as amended by voice vote 6 to 3. Those opposing were SEN. SHEA, SEN. WILSON, and SEN. BARTLETT.

EXECUTIVE ACTION ON HB 341

Amendments: None.

Motion: SEN. BENEDICT moved that HB 341 be concurred in.

Discussion: None.

Vote: Motion carried unanimously by voice vote.

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By **CHAIRMAN THOMAS F. KEATING**, on March 20, 1997,
at 3:25 p.m., in Room 413/415.

ROLL CALL

Members Present:

Sen. Thomas F. Keating, Chairman (R)
Sen. James H. "Jim" Burnett, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Benedict (R)
Sen. C.A. Casey Emerson (R)
Sen. Dale Mahlum (R)
Sen. Debbie Bowman Shea (D)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Eddy McClure, Legislative Services Division
Janice Soft, Substitute Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:

Executive Action: HB 345, BE CONCURRED IN AS
AMENDED
HB 517, BE CONCURRED IN AS
AMENDED
HB 519, TABLED
HB 252, TABLED

EXECUTIVE ACTION ON HB 345

Amendments: HB034501.AEM & HB034505.ASM (EXHIBITS 1 - 4)

Motion: SEN. STEVE BENEDICT moved do-concur on HB 345 and on
amendment (EXHIBIT 1).

Discussion: Carl Schweitzer, Montana Contractors' Association,
said amendment number 1 through 4 (EXHIBIT 1), involve those drug

bill was pretty adamant about the fact that he wanted this done on a yearly basis.

SEN. BENEDICT said he thought the sponsor should take a look at this and didn't think the sponsor would have a chance to think that over. He thinks this needs to be something that works for everybody.

CHAIRMAN KEATING said we are putting a burden on the employer in that he has to fill out the form for every employee at the beginning of every year. This way the employee can say he will make the contribution until he says he will stop. Then he can stop it at anytime.

SEN. EMERSON stated the sponsor will then have a chance when the bill goes to the Floor to reject the amendments.

SEN. BENEDICT said he believes REP. VICK is open to making this as good as possible.

Vote: The motion HB 517 be concurred in with amendments carried unanimously by voice vote.

{Tape: 1; Side: B; Approx. Time Count: 4:19 p.m.}

EXECUTIVE ACTION ON HB 519

Amendments: HB051901.AEM (EXHIBIT 7)

Motion: SEN. SHEA moved HB 519 be concurred in.

Discussion: SEN. BARTLETT said she has an amendment to this bill and the wording is not precisely what she feels is needed yet but it amends the language on page 5, line 28. As this bill came in it simply made every Advanced Practice Registered Nurse licensed in the State of Montana as a nurse practitioner or clinical nurse specialist, a treating physician for Workers' Compensation purposes. She said in talking to the people who are involved with this bill, the one thing they all agree on is that they are willing to have the LPRN practicing as a treating physician similar to the situation with physicians assistants, that is in areas where there is not a physician and as long as there is consultation with a physician on these cases. Her amendments propose to put two limitations into subsection (f), that they have to be an APRN who is in an area that is not served by a physician and who is serving in these cases in consultation with a physician which can be done by phone or computer.

SEN. BARTLETT stated the remaining amendments basically return the language of the statute back to what it is now, that is to restore the term 'treating physician' and strike 'provider', and make it 'treating physician' throughout. She said she is not convinced the wording in amendment 5 is exactly what we need to

accomplish that. If that amendment meets approval, she would like the committee to authorize **Eddy McClure** to work on that language to make sure it states exactly what is intended here.

SEN. BENEDICT asked if we are not talking about a rural area, but in an area where an Advanced Practice Registered Nurse is located but is not being served by a treating physician, will the APRN still be a treating physician?

SEN. BARTLETT responded that is not her intent.

CHAIRMAN KEATING said in discussing the substance and intent of the bill, the bill is to facilitate the rural areas by allowing a nurse practitioner to become a primary care provider in an area where there is not a treating physician.

He said this bill opens the door for an Advanced Nurse Practitioner to be a primary care provider and that opens the door a little too far. He said they just aren't qualified to the level of a position to be a primary care provider. So the language in the amendments is to restore the physician as the primary care provider and to limit to certain areas where there is not a treating physician.

CHAIRMAN KEATING said the language of the bill will do what is already being done in practice. In areas where there is not a treating physician, the insurance companies are paying the claim of the Advanced Nurse Practitioner who handles the injured employee in the first instance. Then the insurance company goes to the injured worker and tells them they have been taken care of very quickly in this emergency situation but now that the emergency is past, to find a treating physician and get an evaluation so that they know exactly what is wrong so the claim can be perfected and the treating physician can determine what program needs to be followed.

He said there is no real requirement to put this into law at this time since that is policy for several carriers. The State Fund may have some trouble with it but their policy is to take care of the injured worker immediately so they can, through their policy allow the nurse practitioner to take care of that emergency. Then the injured worker must go to a treating physician after that for the completion of the help.

CHAIRMAN KEATING stated the amendment to the bill is not needed because that is already being done and if you don't amend the bill, the bill is not needed because a nurse practitioner does not qualify as a primary care provider as a treating physician.

SEN. MAHLUM said he was questioning the rural areas.

CHAIRMAN KEATING said the Workers' Compensation carriers accept the claims from the nurse practitioner in the rural areas. He said **Mr. Worthington** stated they have already contracted with the

person up in Troy who is the provider in the area. So this law is not needed for that purpose.

SEN. BENEDICT said he thinks they hit it right on the head, we do not need the bill. And if the amendments are added, we certainly do not need the bill. He said he will offer a table motion at some point, but to be on the comfortable side he would like to support **SEN. BARTLETT** for putting the amendments on the bill and then see where it goes from there.

SEN. EMERSON said he felt that amendment 2 is absolutely wrong because it says if you look at line 10, page 4, "primary medical service means treatment prescribed by a treating provider" and the amendment changes that to 'physician'. He said then the remainder reads, "for conditions resulting from an injury necessary for achieving medical stability". He said you can't just put "physician" there because someone is going to believe that before you get them to a physician. He said he thinks that has to be taken out.

Eddy McClure explained when they changed to 'providers' throughout the whole bill, most of these sections are in the bill because the word 'physician' was changed to 'provider'. She said the reason it is put back to 'physician' is there are substitutive changes in this section. This is putting the bill back to the way things are now.

SEN. EMERSON stated if we reaffirm it here, that makes it tougher to do. Right now they feel like they are stretching things a little bit. That would slow it down even more.

Ms. McClure said if we go back to treating physician there will be no such thing as a treating provider.

SEN. EMERSON asked if the nurse is taken care of it now?

SEN. BENEDICT answered in some cases, where there is no physician.

SEN. EMERSON said in testimony people were saying the law was being stretched, but what he is saying is that if you go back and reaffirm their has to be a physician, that is going to make it more difficult.

CHAIRMAN KEATING said the action upon a primary medical service is somewhere else in the purpose of the bill. There are provisions for primary medical services in the bill elsewhere and it would be defined to be treated by physicians. He said if there is an emergency, that is covered elsewhere.

SEN. BENEDICT added one of the things the Workers' Compensation insurers in Plans 1,2 and 3 are very concerned about, is if 'provider' is left in the bill. This will open it up to naturopaths and everyone else. We want to leave physicians as

primary care providers. When 'provider' is put in place of 'physician', this opens it up to massage therapists, etc., because provider is such a broad term.

SEN. EMERSON said he sees it a different way and is still against that portion of the amendment.

Vote: Motion to add amendment to HB 519 carried with a 8 to 9 voice vote. **SEN. EMERSON** voted against it.

Motion/Vote: **SEN. BENEDICT** offered a substitute motion to table HB 519. Motion passed 5 to 4 on a Roll Call Vote.

EXECUTIVE ACTION ON HB 252

Amendments: HB025202.ASM & HB025201.AEM (EXHIBITS 8 & 9)

Motion: **SEN. BENEDICT** moved do concur HB 252.

Discussion: **SEN. THOMAS** said this bill is a very significant issue and SB 5, in essence, does the same thing HB 252 does and was tabled. A great deal of work was done on SB 45 and **SEN. THOMAS** believes the House Committee will take that bill off the table tomorrow. He thinks the committee should wait to see what is done with SB 45.

Motion: **SEN. THOMAS** moved to table HB 252.

SEN. BENEDICT said he strongly objects because it is generally understood that a table motion is not offered without at least some discussion on the bill. He said he had the courtesy to allow discussion on HB 519 before it was tabled, he would at least like to have that discussion.

CHAIRMAN KEATING said he would like to have discussion first.

SEN. THOMAS agreed to this and withdrew his motion to table HB 252.

Motion/Vote: **SEN. BENEDICT** moved both amendments (EXHIBITS 8 & 9) be added to HB 252.

Discussion: **SEN. BENEDICT** said EXHIBIT 8 is a simple amendment to make sure that it is Workers' Compensation that we are talking about. He stated the other amendment (EXHIBIT 9) is more technical.

SEN. THOMAS said in the amendment on page 5, line 15, the word 'claims' is being stricken. He said it seems to him this is outside Section 16 of the Constitution because it deals specifically with Workers' Compensation and not just any claim. He does not think this improves the bill but makes it worse.

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By CHAIRMAN THOMAS F. KEATING, on March 27, 1997,
at 4:32 p.m., in Room 413/415.

ROLL CALL

Members Present:

Sen. Thomas F. Keating, Chairman (R)
Sen. James H. "Jim" Burnett, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Benedict (R)
Sen. C.A. Casey Emerson (R)
Sen. Dale Mahlum (R)
Sen. Debbie Bowman Shea (D)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Eddye McClure, Legislative Services Division
Gilda Clancy, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Executive Action: HB 252; Be Concurred In
As Amended
HB 519; Be Concurred In
As Amended

EXECUTIVE ACTION ON HB 252

Amendments: HB025208.AEM & HB025205.AEM (EXHIBITS 1 & 2)

Motion: SEN. STEVE BENEDICT moved to take HB 252 from the table
unamended.

Vote: The motion carried unanimously by voice vote.

Motion: SEN. BENEDICT moved the amendments (EXHIBIT 1).

contractor to work under a registration issue, which is totally different from what Section 8 contains.

SEN. EMERSON said somebody is certainly using an untrue name.

Vote: THE MOTION TO SEGREGATE AMENDMENT 3 FAILED WITH A 2 TO 7 VOICE VOTE. SEN. EMERSON AND SEN. BENEDICT VOTED IN FAVOR OF THE MOTION.

Motion/Vote: SEN. EMERSON moved to change \$5,000 to \$500 in Section 8, subsection 3. THE MOTION FAILED WITH A 2 TO 7 VOICE VOTE. SEN. EMERSON and SEN. BENEDICT voted in favor of the motion.

Vote: The MOTION TO ADD AMENDMENTS (EXHIBIT 2) with the EXCEPTION OF NUMBERS 8 AND 9 CARRIED WITH A 7 TO 2 VOICE VOTE. SEN. EMERSON and SEN. BENEDICT voted against the motion.

Motion/Vote: SEN. THOMAS MOVED HB 252 DO CONCUR AS AMENDED. The MOTION CARRIED WITH A 8 TO 1 VOICE VOTE. SEN. BARTLETT opposed the motion.

{Tape: 1; Side: 2; Approx. Time Count: 5:55 p.m.}

EXECUTIVE ACTION ON HB 519

Amendments: HB051901.AEM (EXHIBIT 3)

Motion: SEN. DEBBIE SHEA MOVED TO TAKE HB 519 OFF THE TABLE AS AMENDED.

Discussion: SEN. SHEA said she does not believe the Committee took a good look at the equity and savings which will be involved with this piece of legislation.

SEN. BARTLETT reiterated what the amendments accomplish. Page 5, line 29 of the bill specifies that an Advanced Practice Registered Nurse who is licensed and recognized by the Board of Nursing and the amendments add the words "practicing in consultation with the physician", if there is not a treating physician as defined elsewhere in the area where the Advanced Nurse is located, would be recognized for the purposes of Workers' Compensation medical care as a treating physician. They are basically saying it is in those areas where there is not a physician and that the Advanced Practice Nurse must be practicing in consultation with a physician.

She said the amendments further strike the change from 'treating physician' to treating provider and make the language 'treating physician'.

SEN. BENEDICT said there is a little conflict if a Physician's Assistant with an Advanced Practice Registered Nurse, in the fact

that under the statutes, the physician's assistant must be under the supervision of a physician to be licensed.

SEN. MAHLUM said his biggest concern is that he wants to make sure that people in the small communities are taken care of. But he does not want to see the doctors ran out of communities by the other providers charging less money who are making this their business. He said that is not the intent of this. He asked SEN. BARTLETT if he is correct in assuming that is what her amendments accomplish.

SEN. BARTLETT said this is correct..

CHAIRMAN KEATING said he does not feels this bill is necessary. He said the nurses are now being covered through present practice by Workers' Compensation plans, Workers' Compensation organizations and self-insurers are recognizing the nurse practitioner in that emergency or that first visit situation where there is not an attending physician on hand. The nurse is the primary provider at that point. The medical claims are being honored by the insurers. Then the injured worker is suppose to go to a treating physician for the evaluation for the continuation of the treatment. The primary care provider is still not trained as a physician.

SEN. EMERSON agreed and said the better they try to write the bill, the more the door is open to get started going to go the other direction.

Vote: The MOTION DO CONCUR HB 519 AS AMENDED CARRIED BY VOICE VOTE WITH 5 IN FAVOR OF AND 4 OPPOSING. Those voting in favor of were SEN. MAHLUM, SEN. THOMAS, SEN. BARTLETT, SEN. WILSON, and SEN. SHEA. Those opposing were SEN. EMERSON, SEN. KEATING, SEN. BENEDICT, and SEN. BURNETT.